

ORDINANCE NO. 86-01

BE IT ENACTED BY THE COUNCIL OF THE SOUTHERN UTE INDIAN TRIBE AT A REGULAR COUNCIL MEETING ASSEMBLED ON THE 5th DAY OF NOVEMBER, 1985, AND NOTWITHSTANDING ANY PRIOR ORDINANCE OR RESOLUTION TO THE CONTRARY, IN ACCORDANCE WITH THE CONSTITUTION OF THE SOUTHERN UTE INDIAN TRIBE OF THE SOUTHERN UTE INDIAN RESERVATION HERETOFORE APPROVED BY THE SECRETARY OF THE INTERIOR.

Section 1

Authority

Enactment of this Ordinance without additional approval by the Secretary of the Interior is authorized by the Constitution of the Southern Ute Indian Tribe of the Southern Ute Indian Reservation adopted by the Southern Ute Indian Tribe, and approved November 4, 1936, and amended October 1, 1975. Specifically, said Constitution, Article VII, Section 1(c), reserves to the Tribal Council the right to manage any portion of the Reservation, including the granting of rights to use the natural resources of the Tribe. The Tribal Council is further empowered to protect and preserve the natural resources of the Tribe, and to regulate the conduct of trade in the use and disposition of Tribal property upon the reservation pursuant to Article VII, Section 1 (n), of said Constitution. Enactment of this Ordinance is further authorized by 25 CFR §211.29.

Section 2

Purposes

The purposes of this Ordinance are to confirm the inherent and tribal constitutional powers of the Southern Ute Indian Tribe to regulate certain oil and gas development activities on Tribal lands in a manner that protects the best interests of the Tribe, and to provide an alternative remedy, not inconsistent with 25 CFR §211.27, to declare oil and gas leases forfeited, when lessees have materially breached the terms of said leases.

Section 3

A. When in the opinion of either the Secretary of the Interior or his authorized delegate, or the Tribal Council of the Southern Ute Indian Tribe, the lessee or his designated operator, has violated the terms and conditions of a lease covering Southern Ute Tribal lands or has violated applicable regulations governing lease operations, the Southern Ute Indian Tribal Council shall have the right at any time after thirty (30) days notice to the lessee specifying the terms and conditions violated, and after a hearing before the Tribal Council, if the lessee shall so request within thirty (30) days after issuance of the notice, to declare such lease forfeited.

B. Specific grounds justifying forfeiture shall include, but shall not be limited to: failure to diligently explore leased acreage, failure to diligently develop leased acreage, and failure to protect the leased acreage from drainage. The standard for determining the existence or nonexistence of alleged violations, in addition to any presently existing regulations, shall be the prudent operator standard. The conduct of oil and gas operators on reasonably similar properties within the exterior boundaries of the reservation may be considered in the establishing the prudent operator standard.

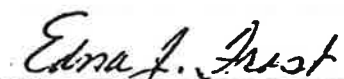
C. Following initial notification of forfeiture, the lessee and the designated operator, and any party purporting to have the permission of the lessee, his agents, and assigns, shall be prohibited from entering upon the leased premises without first notifying the Director of the Energy Resource Division of the Tribe and without receiving the prior permission of said Director to conduct the specific activities contemplated by the lessee, his agents, or assigns. The lessee shall be allowed to conduct only those activities which, in the opinion of the Director of the Energy Resources Division of the Tribe, are reasonably necessary to: protect the public health and safety; eliminate physical damage to geological formations or other property or equipment; eliminate waste of producible substances, or to measure production of lease substances or the sale of such commodities; however, in the absence of compelling need, activities that would substantially alter the existing situation or dramatically change the status quo shall not be permitted.

D. Following declaration of forfeiture of the lease, lessor shall be entitled to exclusive possession of the land.

#### CERTIFICATION OF ADOPTION

The foregoing Ordinance was on the 5th day of November, 1985, duly adopted by a vote of 3 for and 0 against, by the Southern Ute Indian Tribal Council, pursuant to the authority vested in it by Article II of the Constitution of the Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado, ratified by the Southern Ute Indian Tribe on September 30, 1975, and approved by the Secretary of Interior on October 1, 1975.

  
Clement J. Frost, Acting Chairman  
Southern Ute Indian Tribal Council

  
Edna J. Frost, Secretary  
Southern Ute Indian Tribal Council